

MINUTES

ALCOHOL AND TOBACCO COMMISSION

DECEMBER 18, 2001
(Approved January 15, 2002)

CALL TO ORDER/NOTING OF QUORUM

Chairperson DePrez called the meeting to order and noted the quorum and the attendance. Present were Vice Chairperson Glass and Commissioner Marks. Also in attendance were Superintendent Davis, Executive Secretary Steiner and Industry Liaison Okey.

Ronna Chappell of ILBA, Debbie Scott of IABR, Pam Ferguson of WSWI, Jim Calvert of Olinger, John Barnett of DISCUS, Phil Frame of NW&S, and Mark Shublak of Ice Miller were present as observers.

COMMUNICATIONS FROM THE FLOOR

There were no Communications From the Floor.

DISPOSITION OF MINUTES

Commissioner Marks moved to approve the minutes that were submitted for the December 4, 2001 meeting. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

Vice Chairperson Glass moved to approve the PAD forms that were submitted at the December 18, 2001 meeting. Motion seconded by Commissioner Marks and it was unanimously approved.

RR45-06064 SCM ENTERTAINMENT LTD. – Hearing Judge Steiner stated this was a recommended denial by the Lake County Local Board and an upholding of that recommendation by the Commission. The permittee filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Commissioner Marks moved to uphold the Hearing Judge's recommendation to overturn the denial of this permit and approve the renewal. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

RR20-96192 AZTECA MEXICAN RESTAURANT, INC. – Hearing Judge Steiner stated this new applicant did not appear at the local board hearing as required, therefore, the application was denied. The Hearing Judge stated he received information from the applicant's attorney explaining that the applicant was not aware he needed to be present at the local board hearing. The attorney is requesting the application be remanded to the local board for reinvestigation.

Vice Chairperson Glass moved to approve the request. Motion seconded by Commissioner Marks and it was unanimously approved.

DL89-05984 PAYLESS LIQUORS, INC. – Hearing Judge Steiner stated this was a recommendation of approval by the Wayne County Local Board and an upholding of that approval by the Commission. The remonstrators filed a timely notice of appeal and the matter was set for hearing. Since that time, the Hearing Judge was notified that the local board hearing was not advertised in the correct newspapers and, therefore, some people who would have been remonstrators were not aware of the local board hearing and did not attend. Hearing Judge Steiner was advised by the Attorney General's Office that this matter should be readvertised in the correct newspapers and reheard by the local board.

Jeff Abrams appeared representing the remonstrators. He stated that he felt that the notice was defective and should be readvertised and reheard. Mr. Abrams stated that he came before the Commission a few weeks ago on a different matter and his client's application was remanded, due to the concern for the sensitivity of the remonstrators, even though the local board stated they would approve this permit and the majority of the remonstrators were no longer against this permit. Mr. Abrams stated that he felt it would be preposterous for the Commission to approve this permit without remanding it to the local board and that he would find it difficult to practice before this board in the future, if that happened.

Murray Clark appeared representing the applicant. He stated that he felt that the Commission has discretion to see if there is compelling reason to remand this, even though the Attorney General's Office has advised that this had to be remanded and the Commission has no discretion. Mr. Clark stated if that is the case, then there are many permits that should be null and void because all permits in Richmond have been improperly advertised for many years. He also stated that there was a significant remonstrance present at the local board hearing, yet the local board still voted to approve this transfer. He requested that this appeal proceed and the permit be issued while this is pending.

Vice Chairperson Glass wanted to state for the record that it was never clear to her why the applicant was not allowed to operate during the appeal process. She also stated that, if this is remanded and the local board and the Commission approve this, it is a possibility that the business could open immediately.

Chairperson DePrez stated that the decision to not allow the premises to operate was made by the previous chairman and she decided to stand by that decision. However, if this were remanded, the issue would reopen.

Commissioner Marks moved to remand this application to the local board. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

DL45-82281 JASSY, INC. – Hearing Judge Steiner stated this was a recommended denial by the Lake County Local Board and an upholding of that denial by the Commission. The applicant filed a timely notice of appeal and the matter was set for hearing. At the appeal hearing, attorney for the applicant, Joseph Quill, requested the application be remanded to the local for a reinvestigation due to the fact that the applicant was unable to attend the local board hearing personally, so his brother, who is not fluent in English, went to the hearing. There was misinformation given by the brother at the hearing. The Hearing Judge recommended that the Commission remand this application to the local board, so the applicant can appear.

Vice Chairperson Glass moved to approve the Hearing Judge's recommendation to remand this application. Motion seconded by Commissioner Marks and it was unanimously approved.

APPEAL OF HEARING JUDGE'S RECOMMENDATIONS

There were no Appeals of Hearing Judge's Recommendations.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Marks and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

Four hundred twenty-three (423) renewals approved, sixty-four (64) new and/or transfer permits approved, twenty-six (26) permits conditionally approved, six (6) permits approved for first year escrow, and seven (7) permits approved for second year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Commissioner Marks moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR50-19358 LOS AMIGOS, INC. – Vice Chairperson Glass noted this is a new type 103 application with the local board voting one (1) to three (3) to disapprove.

Vice Chairperson Glass moved to uphold the local board's recommendation to deny the new permit. Motion seconded by Commissioner Marks and it was unanimously approved.

DL45-19021 ANIL CORPORATION – Vice Chairperson Glass noted this is a new type 115 application with the local board voting three (3) to zero (0) to disapprove.

Vice Chairperson Glass moved to uphold the local board's recommendation to deny the new permit. Motion seconded by Commissioner Marks and it was unanimously approved.

DL02-96328 ROMKOR, INC. – Vice Chairperson Glass noted this is a type 217 renewal application with the local board voting two (2) to two (2).

Vice Chairperson Glass moved to remand this renewal to the local board for a reinvestigation. Motion seconded by Commissioner Marks and it was unanimously approved.

INACTIVE FILES

Commissioner Marks moved to make sixteen (16) permits inactive. Thirteen (13) permits are not subject to auction and three (3) permits are subject to auction. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

RR71-02356 BIG J CORP. – Commissioner Marks noted the St. Joseph County Local Board recommended this renewal application be denied, however, a transfer has been filed. Commissioner Marks moved to remand this renewal to the local board along with the transfer application. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

APPEALS FROM LOCAL BOARD RECOMMENDATIONS

RR45-19284 DÉJÀ VU SHOWGIRLS OF HAMMOND, INC., RR45-01236
TERRENCE CROSSLEY, RR45-19298 TERRENCE CROSSLEY, RR45-04139
TERRENCE CROSSLEY, RR50-19358 LOS AMIGOS, INC. – Chairperson DePrez
stated these appeals will be assigned to a Hearing Officer and scheduled for hearing.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

BALL STATE WOMEN'S CLUB BENEFIT – Ball State University Women's Club is
requesting permission to hold a wine tasting and silent auction fundraiser.

MUSCULAR DYSTROPHY ASSOCIATION – The Muscular Dystrophy Association is
requesting approval for a donation of alcoholic beverages for their 7th Annual Auction
fundraiser.

MENTAL HEALTH ASSOCIATION INTRO 2002 FUNDRAISER – Mental Health
Association is requesting permission to serve donated alcoholic beverages at their
INTRO 2002 fundraiser.

Vice Chairperson Glass moved to approve these requests. Motion seconded by
Commissioner Marks and it was unanimously approved.

POLICY DETERMINATIONS

There were no Policy Determinations.

UNDER ADVISEMENT

There was nothing Under Advisement.

ANNOUNCEMENTS

JANUARY MEETING DATES – Chairperson DePrez stated the only Commission
meeting for the month of January will be January 15, 2002.

ADJOURNMENT

Vice Chairperson Glass moved to adjourn the meeting. Motion seconded by Commissioner Marks and it was unanimously approved.

Approved this _____ day of _____, 2002.

MARY DEPREZ, CHAIRPERSON

BARBARA L. GLASS, VICE CHAIRPERSON

JAMES DAVIS, COMMISSIONER

GIGI M. MARKS, COMMISSIONER